

LANG et al.  
Appl. No. 10/534,496  
April 5, 2007

**AMENDMENTS TO THE DRAWINGS:**

Please accept and enter the attached FIG. 1 as a new drawing.

Attachment: Replacement Sheet

### **REMARKS/ARGUMENTS**

In view of the amendments and remarks herein, favorable reconsideration and allowance of this application are respectfully requested. By this Amendment, claims 1, 8, 9, 17, 20 and 22-23 have been amended to better define the subject matter of the claims. Claims 2-7 and 12-14 have been cancelled. Claim 24 has been added to further define the subject matter of the claims. Thus, Claims 1, 8-11 and 15-24 are pending for examination.

Claims 22 and 23 have been amended to remove the double recitations cited in the Office Action, thus Applicant requests withdrawal of the Objections.

FIG. 1 has been submitted as a new drawing. FIG.1 simply shows the exemplary embodiment described on Page 19 of Applicant's specification as Example 2, and thus does not introduce any new matter to the disclosure.

Claims 1-3 and 15 stand rejected under 35 U.S.C. §102(b) as being anticipated by Conn (U.S. Pat. No. RE 32,570). Applicant respectfully submits that Conn does not teach all elements of claim 1, as amended.

Initially, Applicant notes that Conn does not teach a "spirit-level" as recited by claim 1. Applicant uses the term spirit-level "in its conventional meaning to refer to a suitable device for determining whether a surface upon which said device rests is level." (Specification, page 10). Conn, however, teaches a device that can only determine whether or not an object to which it is affixed has been tilted. According to Conn, "baffle 19 then flares outwardly with the angle of the sides 29 being related to the critical

angle beyond which tilting will be registered by escape of the second mass 17” (column 4, lines 60-63). Conn cannot be used to determine whether a device is level because the baffles prevent the marking fluid from moving until the device is tilted beyond a threshold point. Conn’s device, simply put, is not a spirit-level, and hence not a spirit-level vial.

Additionally, claim 1 recites “wherein said globule is capable of moving freely through said medium in response to any changes in the spatial orientation of said transparent vessel.” Conn specifically teaches that portions of the tilt-detector are built to stop the liquid from moving freely in response to changes in the spatial orientation of said vessel unless a threshold level is achieved. The baffles, walls and raised inner portion of the baffle are all designed to prevent the free motion of the globule in some fashion, be it out of or back into the initial position. Conn thus teaches away from the invention of claim 1.

For at least these reasons, claim 1 should be allowable over the prior art of record. Claim 15 should be allowable based at least on its dependency from claim 1.

Reconsideration and allowance are respectfully requested.

Claims 4-14, 17-19, 22 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Conn.

Applicant notes that the elements of claims 2 and 7 have been added to independent claim 1, however, Applicant submits that Conn does not teach or suggest all elements of the claimed combination.

As previously noted, claim 1 recites “wherein said globule is capable of moving freely through said medium in response to any changes in the spatial orientation of said transparent vessel.” Conn does not teach or suggest a globule capable of moving freely through a medium in response to any changes in the spatial orientation of a transparent vessel. Nor does Conn teach or suggest a “spirit-level” as recited by claim 1.

Conn is directed to a device provided with a “trap” that holds a globule in position until a threshold is reached, at which point the globule is taught to be released from the initial trap and subsequently “trapped” in a second position. To modify Conn to create a spirit-level, in which said globule can move freely through the medium in response to any changes in the spatial orientation of said transparent vessel would destroy the teachings of Conn. If the globule in Conn could move freely, then there would be no way of knowing whether a tilt threshold had been crossed. Further, a shipper could conceivably re-align the globule with an initial position. Generally, the device of Conn would not function if the globule could move freely through the medium in response to any change in the spatial orientation of the vessel. Thus, Conn teaches against Applicant’s claimed invention.

Additionally, claim 1, as amended, now recites “wherein said second liquid has a higher density than said first liquid, said first liquid being an aqueous liquid and said second liquid being an organic liquid.” Conn does not teach or suggest a globule of a lower density aqueous liquid moving through a medium of a higher density organic liquid.

According to Applicant's specification, there should be "no substantial change in the volume, mass or shape of said globule over a time frame corresponding to the usual working lifespan of the spirit-level vial." (Specification, page 4). This is achieved in Applicant's claim 1 because Applicant has discovered that at least the combination of a less dense aqueous liquid provided in a heavy organic liquid is advantageous in that it produces a globule which has these characteristics. Conn makes no reference to such characteristics being necessary. Conn, in fact, teaches that the globule can be divided. (FIG. 4).

For at least these reasons, Applicant submits that claim 1 is patentable over the applied reference. Claims 8-11, 17-19, 22 and 23 should be allowable based at least on their dependency from claim 1. Reconsideration and allowance are respectfully requested.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Conn in view of H'Doubler. For at least the reason that claim 16 depends from allowable claim 1, claim 16 should be allowable. Reconsideration and allowance are respectfully requested.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Conn in view of Szumer. For at least the reason that claim 20 depends from allowable claim 1, claim 20 should be allowable. Reconsideration and allowance are respectfully requested.

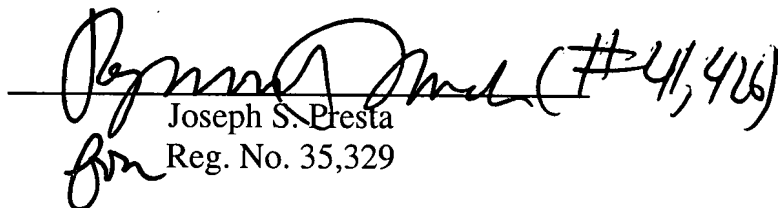
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Claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Conn in view of MacDermott. For at least the reason that claim 21 depends from allowable claim 1, claim 21 should be allowable. Reconsideration and allowance are respectfully requested.

For at least the foregoing reasons, Applicant respectfully submits that the invention defined by the amended claims herein is not taught or suggested by the prior art of record. Thus, withdrawal of the rejections and allowance of this application are earnestly solicited.

Respectfully submitted,

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